

## STATE OF SOUTH CAROLINA

## (Caption of Case)

Application of Velocity The Greatest Phone Company  
 Ever, Inc., for a Certificate of Public Convenience and  
 Necessity to Provide Resold Local Exchange and  
 Interexchange Telecommunication Services in the  
 State of South Carolina

BEFORE THE  
 PUBLIC SERVICE COMMISSION  
 OF SOUTH CAROLINA

## COVER SHEET

DOCKET

NUMBER: 2009 - 380 - C

(Please type or print)

Submitted by: Margaret M. Fox, Esquire

SC Bar Number: 65418

Address: McNair Law Firm, P. A.

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P. O. Box 11390

Fax: 803-753-3219

Columbia, SC 29211

Other:

Email: pfox@mcnair.net

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

## DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☐ Other:

## INDUSTRY (Check one)

## NATURE OF ACTION (Check all that apply)

- ☐ Electric  
☐ Electric/Gas  
☐ Electric/Telecommunications  
☐ Electric/Water  
☐ Electric/Water/Telecom.  
☐ Electric/Water/Sewer  
☐ Gas  
☐ Railroad  
☐ Sewer  
☒ Telecommunications  
☐ Transportation  
☐ Water  
☐ Water/Sewer  
☐ Administrative Matter  
☐ Other: \_\_\_\_\_

- ☐ Affidavit  
☐ Agreement  
☐ Answer  
☐ Appellate Review  
☐ Application  
☐ Brief  
☐ Certificate  
☐ Comments  
☐ Complaint  
☐ Consent Order  
☐ Discovery  
☐ Exhibit  
☐ Expedited Consideration  
☐ Interconnection Agreement  
☐ Interconnection Amendment  
☐ Late-Filed Exhibit  
☐ Letter  
☐ Memorandum  
☐ Motion  
☐ Objection  
☐ Petition  
☐ Petition for Reconsideration  
☐ Petition for Rulemaking  
☐ Petition for Rule to Show Cause  
☐ Petition to Intervene  
☐ Petition to Intervene Out of Time  
☐ Prefiled Testimony  
☐ Promotion  
☐ Proposed Order  
☐ Protest  
☐ Publisher's Affidavit  
☐ Report  
☐ Request  
☐ Request for Certification  
☐ Request for Investigation  
☐ Resale Agreement  
☐ Resale Amendment  
☐ Reservation Letter  
☐ Response  
☐ Response to Discovery  
☐ Return to Petition  
☒ Stipulation  
☐ Subpoena  
☐ Tariff  
☐ Other: \_\_\_\_\_

Print Form

Reset Form

December 14, 2009

Margaret M. Fox

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F (803) 753-3219

Charles L. A. Terreni  
Chief Clerk and Administrator  
South Carolina Public Service Commission  
101 Executive Center Drive  
Suite 100  
Columbia, SC 29210

Re: Application of Velocity The Greatest Phone Company Ever,  
Inc. for a Certificate of Public Convenience and Necessity to  
Provide Resold Local Exchange and Interexchange  
Telecommunication Services in the State of South Carolina  
**Docket No. 2009-380-C**

Dear Mr. Terreni:

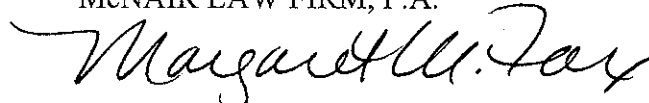
Enclosed for filing please find a Stipulation on behalf of Home Telecom,  
Inc. and Home Telephone Company, Inc. ("Home"), in the above-referenced  
docket.

An earlier version of this Stipulation which was filed on December 11,  
2009, contained a scrivener's error. The attached Stipulation corrects the error  
and will replace the earlier filing. By copy of this letter and Certificate of  
Service, all parties of record are being served by U. S. Mail with a corrected  
copy of this Stipulation.

Please let us know if you have any questions. Thank you for your  
assistance.

Sincerely,

McNAIR LAW FIRM, P.A.



Margaret M. Fox

McNair Law Firm, P. A.  
The Tower at 1301 Gervais  
1301 Gervais Street, 11th Floor  
Columbia, SC 29201

Mailing Address  
Post Office Box 11390  
Columbia, SC 29211

mcnair.net

MMF:rwm  
Enclosures

cc: Parties of Record

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 2009-380-C

In the Matter of Application of Velocity The Greatest	)	
Phone Company Ever, Inc. for a Certificate of Public	)	
Convenience and Necessity to Provide Interexchange	)	STIPULATION
and Local Exchange Telecommunications Services and	)	
for Flexible and Alternative Regulation of Local and	)	
Interexchange Service Offerings	)	
_____	)	

This Stipulation (the "Agreement") is entered into as of the date set forth below (the "Effective Date"), by and between Velocity The Greatest Phone Company Ever ("Velocity") and Home Telecom, Inc./Home Telephone Company, Inc. ("Home") (collectively the "Parties"). The Parties hereby enter into the following stipulations.

**WHEREAS**, Home is the owner of the trademark and service mark rights, and accompanying South Carolina registration, in the mark VELOCITY (the "Mark") in association with telecommunications goods and services;

**WHEREAS**, Velocity has filed with the South Carolina Public Service Commission an application for certificate of public convenience and necessity to provide telecommunication services in South Carolina, including in Charleston, Berkeley, and Dorchester counties (the "Territory");

**WHEREAS**, Home opposes the granting of the certificate in Docket No. 2009-380-C (the "Opposition");

**WHEREAS**, Velocity represents that it has no intention of using the Mark in the Territory for so long as Home maintains rights in the Mark;

**WHEREAS**, the Parties are willing to resolve the Opposition under the following terms and conditions:

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and the exchange of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the following:

1. The Parties agree that the recitals above are a part of and binding upon the Parties and form a part of the Agreement. The Parties guarantee and warrant that the representations stated herein are true and correct and that the Parties have relied upon these representations to enter into this Agreement.

2. Velocity agrees that for so long as Home enjoys its trademark and service mark rights in the Mark in the Territory, Velocity will not use the Mark in the Territory, or any confusing similar mark, in association with telecommunications goods or services;

3. Home agrees that upon execution by both Parties of the Agreement, it will withdraw its opposition to Velocity's application for a certificate of public convenience and necessity in SC Public Service Commission Docket No. 2009-380-C.

4. The Parties agree that any breach of this agreement by Velocity will allow Home any and all available remedies, including Home's right to commence litigation for trademark or service mark infringement. Furthermore, Home reserves its right to request appropriate action be taken by the Public Service Commission of South Carolina, including but not limited to

revocation of Velocity's certificate, in the event Velocity's provision of service in South Carolina results in trademark or service mark infringement.

5. This Agreement shall be binding upon all the Parties to this agreement, their heirs, successors, and assigns. This Agreement shall have no effect whatsoever until such time as it is fully executed by all Parties hereto.

6. This Agreement shall not be modified except if reduced to writing and executed by all Parties. This Agreement and all documents incorporated by reference contain the entire agreement between the Parties. All previous negotiations and discussions are null and void, and the only terms agreed upon are those expressly included in this Agreement.

7. All Parties are responsible for their own fees and costs associated with the Opposition and the negotiation and execution of this Agreement.

8. In the event that legal action is necessary to enforce any breach of this Agreement, the prevailing party shall have the right to all costs and expense, including reasonable attorney fees, from the other party.

9. This Agreement constitutes a fully negotiated agreement among reasonably sophisticated Parties, each assisted by legal counsel, and the terms of the Agreement shall not be construed or interpreted for or against any party on the basis or presumption that such party was the drafter of this Agreement. The rule of contract construction provides that ambiguities are resolved against the drafter shall not apply to any provision of this Agreement.

10. The signatures to this Agreement may be evidenced by facsimile or electronic copies reflecting the Party's signature hereto, and any such facsimile or electronic copy shall be

sufficient to evidence the signature of such Party just as if it were an original signature. This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. The parties mutually agree to accept the other party's facsimile or electronic signature of this Agreement, and to be bound by its own facsimile or electronic signature of this Agreement.

11. This agreement shall be construed under the law of South Carolina, without regard to the choice of laws provisions. The Parties agree to the exclusive jurisdiction of the state and federal courts of Charleston County and/or the administrative agencies of the state of South Carolina for any action arising from or involving this agreement.

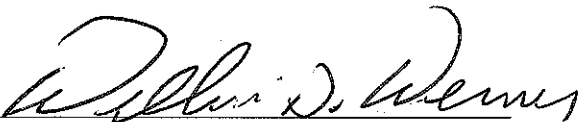
12. Velocity hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Agreement.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be signed by their duly authorized corporate officers. The Parties warrant that they have read and understand this Agreement, they voluntarily agree to and have signed the Agreement, they are not relying upon any inducements, representations, agreement, or understandings other than as are set forth herein, and that they are acting with full advice of and explanation by their respective legal counsel.

AGREED AND STIPULATED to this 14<sup>th</sup> day of December, 2009.

Velocity The Greatest Phone Company Ever

Home Telecom, Inc. and Home  
Telephone Company, Inc.

  
By: William D. Werner  
Its: Vice President - Operations

\_\_\_\_\_  
By: H. Keith Oliver  
Its: Senior VP Corporate Operations

AGREED AND STIPULATED to this 14th day of December, 2009.

Velocity The Greatest Phone Company Ever

Home Telecom, Inc. and Home  
Telephone Company, Inc.

\_\_\_\_\_  
By:  
Its:

H. Keith Oliver  
By: H. Keith Oliver  
Its: Senior VP Corporate Operations



BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

DOCKET NO. 2009-380-C

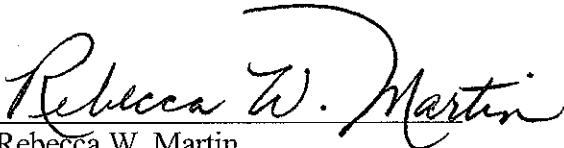
In the Matter of Application of Velocity The Greatest )  
Phone Company Ever, Inc. for a Certificate of Public )  
Convenience and Necessity to Provide Interexchange )  
and Local Exchange Telecommunications Services )  
and for Flexible and Alternative Regulation of Local )  
and Interexchange Service Offerings )

**CERTIFICATE  
OF SERVICE**

This is to certify that I, Rebecca W. Martin, an employee with the McNair Law Firm, P. A., have this date served one (1) copy of the attached Stipulation in the above-referenced matter to the persons named below by causing said copy to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below.

Scott Elliott, Esquire  
Elliott & Elliott, P.A.  
721 Olive Street  
Columbia, South Carolina 29205

Nanette S. Edwards, Esquire  
Office of Regulatory Staff  
Post Office Box 11263  
Columbia, South Carolina 29211

  
Rebecca W. Martin  
McNair Law Firm, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

December 14, 2009

Columbia, South Carolina